

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date March 12, 1968

To Charles F. Rogan, Chairman

Dept Oil Burner Men's Licensing Board

From Phillip M. Kilmister, Assistant

Dept. Attorney General

Subject Title 32, section 2301 of the Revised Statutes of Maine as amended by P. L. 1967, chapter 249.

FACTS:

The enactment of P. L. 1967, c. 249 amended 32 M.R.S.A. § 2301 to provide that a licensed journeyman oil burner man may exchange his license for a master's license. Said statute reads as follows:

32 M.R.S.A. § 2301, 3. "Journeyman oil burner man. 'Journeyman oil burner man' shall mean a person who is qualified under this chapter to clean, service and repair oil burning equipment. He shall install oil burner equipment only under the supervision of a master oil burner man. He shall present to the board satisfactory evidence that he has one year of practical experience, except that a journeyman oil burner man who has a valid license on the effective date of this Act may exchange his license for a master's license upon payment of the fee of \$25."

32 M.R.S.A. § 2402 vests the Oil Burner Men's Licensing Board with authority to make reasonable rules and regulations governing the issuance of licenses. You have in effect asked the following question.

QUESTION:

May the Board, under their rule-making power set forth in 32 M.R.S.A. § 2402, limit the time period within which journeymen may exchange their licenses for masters' licenses as provided for in 32 M.R.S.A. § 2301, 3?

ANSWER:

No.

OPINION:

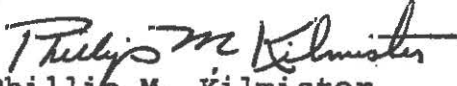
We do not believe that the power vested in the Board to make rules and regulations governing the issuance of licenses (32 M.R.S.A. § 2402) includes the power to limit the time within which a journeyman may apply for an exchange of licensure to that of master status.

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Rules and regulations promulgated by the Board must be reasonable and not in contravention of, or beyond the authorization of the statutes governing licensure of oil burner men.

"A resolution of a licensing Board which extends the time prescribed by statute for an application for a license has been held to be without legal effect." Jamison v. Stout, 14 Ohio Supp. 71.

By the same token we believe that where the legislature has given journeymen the right to exchange their licenses, for that of master oil burner men status, that the Board may not cut down or shorten the statutory time limit within which such an exchange may be made.


Phillip M. Kilmister
Assistant Attorney General

PMK/slf